

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Inbound Competitive Multi-Service Agreements with
Foreign Postal Operators
China Post Group – United States Postal Service
Multi-Product Bilateral Agreement (MC2010-34)
Negotiated Service Agreement

Docket No. CP2013-23

ORDER APPROVING MODIFICATION OF
CHINA POST 2013 AGREEMENT

(Issued June 18, 2013)

I. INTRODUCTION

The Postal Service proposes a modification to the China Post 2013 Agreement (Agreement).¹ For the reasons discussed below, the Commission approves the Modification.

¹ Notice of the United States Postal Service of Filing Modification to the China Post Group – United States Postal Service Multi-Product Bilateral Negotiated Service Agreement, May 29, 2013 (Notice). The modification is Attachment 1 to the Notice (Modification). See also Order No. 1736, Notice and Order Concerning Modification of 2013 China Post Agreement, May 30, 2013.

II. BACKGROUND

In Order No. 546, the Commission approved the Agreement, which established rates for the delivery of inbound Air Parcel Post (Air CP), Surface Parcel Post (Surface CP), Express Mail Service (EMS), and referred to an anticipated product.² The Modification addresses the anticipated product. It establishes rates for two new bilaterally negotiated products (Air CP with Delivery Confirmation only and Air CP with Signature Confirmation only) and provides related Annexes 7 and 8. The intended effective date of the Modification is the later of two dates on which the amendment is signed by the Parties' representatives. Notice, Attachment 1 at 2. The duration of the Modification is co-extensive with that of the Agreement. *Id.*

III. THE POSTAL SERVICE'S POSITION

The Postal Service states that it has separately filed, under seal, the Modification to the Agreement and supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5, along with a redacted copy of the Modification and the certified statement required by 39 C.F.R. § 3015.5(c)(2). Notice at 2.

IV. COMMENTS

The Public Representative filed comments on June 7, 2013.³ No other comments were received. The Public Representative's review of the Agreement, the Modification, and the supporting financial model leads him to conclude that the Agreement, as amended by the Modification, appears likely to satisfy the requirements of 39 U.S.C. § 3633. PR Comments at 2. However, he considers the projected cost coverage for the Agreement, as modified, small, with little margin for error if unit costs,

² See Docket Nos. MC2010-34 and CP2010-95, Order No. 546, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, September 29, 2010.

³ Public Representative Comments on Postal Service Notice Concerning Modification of China Post 2013 Agreement, June 7, 2013 (PR Comments).

especially for inbound EMS, are understated; questions the reasonableness of certain unit cost estimates; and states there is no explanation of how the Modification is functionally equivalent to the baseline agreement. *Id.*

Functional equivalency. The Public Representative states that because the Commission reviews both new and amended negotiated service agreements within the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product for compliance with 39 U.S.C. § 3633, it seems reasonable to expect that an amended agreement containing new service features and rates also remains functionally equivalent to the baseline TNT Agreement. *Id.* at 4. He suggests that the Commission ask the Postal Service to provide an explanation as to how the amended Agreement remains substantially similar, and therefore functionally equivalent, to the baseline Agreement. *Id.*

Consistency with statutory cost requirements. The Public Representative concludes that the Postal Service's financial model indicates that the negotiated prices, including those for the new air parcel services, will generate sufficient revenue to cover costs. *Id.* at 3.⁴ Notwithstanding this however, he criticizes the financial model's estimated mail processing and delivery unit costs for the new air parcel services as not reasonable because the estimates fail to account for the additional costs of the service (Signature Confirmation), or reflect reduced costs (Delivery Confirmation). He therefore considers the estimates for the two new Air CP services counterintuitive because mail processing and delivery costs are less expensive for the new Air CP services than they would be without the ancillary services. PR Comments at 3-4.

⁴ He also states that the projected cost coverage for the amended Agreement is an improvement over the projected cost coverage in the Agreement as initially filed. *Id.* n.8. See also Notice of the United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with a Foreign Postal Operator, November 30, 2012.

V. COMMISSION ANALYSIS

The Commission's responsibility is to review the Agreement, as modified, to ensure that it is functionally equivalent to the baseline agreement and satisfies the requirements of 39 C.F.R. §§ 3015.5 and 3015.7 and 39 U.S.C. § 3633.

Functional equivalence. As the Public Representative observes, the Postal Service did not affirmatively address the functional equivalence of the Agreement, as amended by the Modification, in the body of its Notice. The Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product is limited perforce to foreign postal operators. To some degree, this limited availability somewhat lessens the significance of functional equivalency. Nonetheless, as the mix of services offered to foreign postal operators evolves, the comparison to the initial baseline agreement becomes more tenuous. When new services are offered to foreign postal operators the Postal Service should consider establishing a new baseline agreement, which could serve as one of several agreements available to meet the needs of foreign postal operators. In this instance, since the Modification was referenced in the Agreement as filed, the Commission will continue to include the Agreement, as modified, within the existing product.

Cost considerations. The Commission agrees with the Public Representative that the mail processing and delivery unit cost estimates for the new air parcel products with Signature Confirmation and Delivery Confirmation seem counterintuitive. However, replacing those unit costs with International Cost and Revenue Analysis average unit costs with the relevant ancillary services reflected yields a cost coverage for the Agreement, as modified, that satisfies 39 U.S.C. § 3633(a)(2). Furthermore, the Commission finds that the Agreement, as modified, will not lead to the subsidization of competitive products by market dominant products (39 U.S.C. § 3633(a)(1)); and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. § 3633(a)(3)).

It is ordered:

1. The Agreement, as modified, in Docket No. CP2013-23 is included within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.
2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement.
3. The Postal Service shall promptly notify the Commission upon termination of the Agreement by either party in accordance with the terms set out in the body of this Order.
4. Within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues data associated with the Agreement.
5. Within 30 days of the issuance of this Order, the Postal Service shall provide the spreadsheets identified in the body of this Order or an explanation of why the spreadsheets cannot be provided.

By the Commission.

Shoshana M. Grove
Secretary